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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

PRESIDENT & CEO

Alan R. Shark, CAE

December 3, 1999

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Magalie R. Salas, Secretary
Federal Communications Commission
445 Twelfth Street, SW, Room TW-A 325
Washington, DC 20554

**Re: Notice of oral and written *ex parte* communication
Service Rules for the 746-764 and 776-794 MHz Bands
(WT Docket No. 99-168)**

To the Secretary:

On December 3, 1999, the American Mobile Telecommunications Association, Inc. ("AMTA," the Association") made an oral and written *ex parte* communication concerning the above-referenced proceeding to Bryan Tramont, Legal Advisor to Commissioner Harold Furchtgott-Roth. The purpose of the meeting was to discuss AMTA's position in the above-referenced proceeding. To aid in the discussion, AMTA distributed a list of points – the list is attached to this Notice.

The Association recommends that the FCC allot a portion of the commercial spectrum in the 746-806 MHz band to non-consumer wireless services. By restricting provision of service to Part 90 eligibles, the Commission can ensure that this spectrum is devoted to private wireless use, while meeting the "commercial" designation imposed by statute. With such an allocation, the FCC can meet twin goals of providing additional spectrum for private wireless use, while providing an opportunity for small business.

However, the Association stressed that the specialized wireless industry is not likely to participate in an auction of such spectrum unless geographic areas are reasonably small. While the attached discussion points suggest licenses be awarded on an Economic Area (EA) basis, AMTA understands that larger areas, such as MEAs, may be the smallest under consideration. If so, AMTA merely urged that areas be as small as possible to encourage participation in the auction.

The Association does not suggest limitations on the eligibility of bidders in an auction of PMRS spectrum. It also believes that a Band Manager allocation would

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be compatible with its proposal, so long as Band Manager eligibility is open to commercial operators.

AMTA members and the specialized wireless industry are long accustomed to providing service to private wireless users, and the Association indicated its belief that the Band Manager concept is similar to a commercial license incorporating flexibility to partition and disaggregate, with overall responsibility remaining with the licensee. However, AMTA members have indicated a preference for flexibility in Band Manager rules, to allow either construction and operation of a system, sub-leasing to private wireless entities, or a combination of both to meet specialized needs.

Further details of AMTA's proposal are included in the attached list of discussion points. Pursuant to Section 1.1206(b) of the Commission's Rules and Regulations, 47 C.F.R. § 1206(b), an original and one copy of this Notice are provided.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jill M. Lyon", with a long horizontal flourish extending to the right.

Jill M. Lyon
Senior Vice President for Regulatory Relations
& Deputy General Counsel

Enclosure

cc: (without enclosure)
Bryan Tramont, Esq.

**Service Rules for the 746-764 and 776-794 MHz Bands
(WT Docket No. 99-168)
Discussion Points**

1. AMTA advocates in this proceeding an allocation of 6 megahertz, paired (12 megahertz total) from the referenced spectrum bands for non-consumer wireless services. The Association asserts that such an allocation will meet the FCC's desire to provide more spectrum for private wireless use while retaining the "commercial" designation imposed by Congress.
2. Specialized commercial wireless systems traditionally provide service to Part 90 eligibles, the private users that the FCC wishes to accommodate. The industry suffers from a shortage of spectrum that could be alleviated with the recommended allocation.
3. AMTA's members support a restriction on service in the resulting band to Part 90 eligibles, and are not opposed to a restriction against interconnection of licensed systems with the public switched network to retain PMRS regulatory status.
4. To increase the number of parties interested in bidding on such an allocation, AMTA recommends licenses with small amounts of spectrum: a combination of 1 MHz, paired (2 MHz total) and .5 MHz, paired (1 MHz total), each, to be awarded on an EA basis. The small commercial systems that have proven highly effective at serving the needs of the private wireless community prefer smaller licenses to enable realistic business plans; this amount of spectrum will still allow them to select from a broad range of technical and operational options.
5. The Association also supports the FCC's Band Manager concept as believed to be developing. AMTA members would be interested in bidding for Band Manager licenses if the allocations incorporated a reasonable geographic area, such as EAs, but would not find realistic business opportunities in a regional or nationwide license and would not likely participate in such an auction.
6. AMTA's members have indicated their interest in maximum flexibility for Band Manager licensees: to "sub-lease" spectrum to private wireless eligibles, to construct and operate systems of their own, or both.

7. AMTA does not oppose Motorola's proposed allocation in four bands between CMRS and Public Safety allocations; however, the Association agrees with Motorola that significant portions of these guard bands would be of limited use due to interference from CMRS emissions. Thus, AMTA continues to recommend a larger allocation of 6 MHz, paired, rather than Motorola's recommendation of 3 MHz, paired, for PMRS systems.

AMTA thanks the Wireless Telecommunications Bureau for the opportunity to discuss its position, and will be happy to discuss these issues further with the Bureau and the Commission as a whole.